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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,372	09/10/2003	Tsutomu Shoki	Q77434	3326

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EXAMINER

RUGGLES, JOHN S

ART UNIT PAPER NUMBER

1756

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/658,372

Applicant(s)

SHOKI, TSUTOMU

Examiner

John Ruggles

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 6/28/04 & 9/10/03.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☒ Claim(s) 1-12 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-5 and 8-10, drawn to methods of making a first product reflection mask blank by forming a multilayer reflection film on a substrate, heat treating the multilayer reflection film, and then forming an absorber layer on the multilayer reflection film, classified in class 204, subclass 192.11.
- II. Claims 6 and 11, drawn to methods of patterning the absorber layer on a reflection mask blank to make a second product patterned reflection mask, classified in class 430, subclass 5.
- III. Claims 7 and 12, drawn to methods of patterning a semiconductor substrate using a second product patterned reflection mask, classified in class 430, subclass 311.

The inventions are distinct, each from the other because of the following reasons:

Inventions I, II, and III are related as processes of making and processes for using both a first product reflection mask blank and a second product patterned reflection mask. The inventions are distinct if (A) either or both of the following can be shown: (1) that the process of making as claimed can be used to make another and materially different product or (2) that the product can be made by another and materially different process than is claimed (MPEP § 806.05(f)) and (B) either or both of the following can also be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product can be used in a materially different process for using that product than is claimed (MPEP § 806.05(h)). In the instant case, (A) the first product reflection mask blank and the second

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product patterned reflection mask can be made by other and materially different processes than the methods of Groups I and II (such as forming a multilayer reflection film on a substrate, forming an absorber layer on the multilayer reflection film, and then heat treating the multilayer reflection film and overlying absorber layer to make a first product reflection mask blank, followed by patterning the absorber layer on the first product reflection mask blank to make a second patterned reflection mask) and (B) such a second product patterned reflection mask can be used in a materially different process for using that product than is claimed in Group III (such as a process of patterning a non-electrical device (e.g., optical device, etc.) on a non-semiconductor substrate using the patterned reflection mask).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and also because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

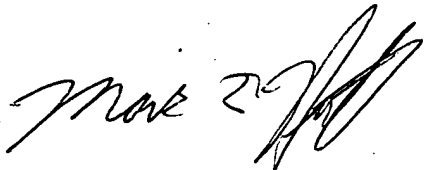
Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even if the requirement is traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Ruggles whose telephone number is 571-272-1390. The examiner can normally be reached on Monday-Thursday and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Huff can be reached on 571-272-1385. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MARK F. HUFF  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700



John Ruggles  
Examiner  
Art Unit 1756